



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

**Dispute Codes:** CNC FF

### Introduction

This hearing dealt with the tenant's application to cancel a *1 Month Notice to End Tenancy for Cause* (the Notice) and recovery of the filing fee. Both parties appeared at the hearing and had an opportunity to be heard and respond to the other party's submissions.

### Issue(s) to be Decided

1. Whether there are grounds to cancel the Notice.
2. Award of the filing fee.

### Background and Evidence

I heard undisputed testimony that the tenancy commenced in April 2008 and the landlord served the tenant with the Notice on November 19, 2008. The Notice has an effective date of December 15, 2008 and indicates the reasons for ending the tenancy are that:

- The tenant has been repeatedly late paying rent;
- There are an unreasonable number of occupants in the rental unit; and,
- The tenant has caused extraordinary damage to the rental unit.

Both parties were in agreement that there is no written tenancy agreement but that the rent is payable on the 1<sup>st</sup> day of every month. The landlord testified that the tenant had been late paying rent three times since her tenancy commenced. The tenant acknowledged paying rent late on three occasions.

The landlord alleged there are too many occupants in the rental unit. The tenant stated that she and her son live in the rental unit and that her daughter has resided there temporarily, and her son's girlfriend and other daughter visited for a few weeks. The rental unit has two bedrooms and one bathroom.

The landlord testified that the tenant caused the sewer lines to clog by flushing food and tampons down the toilet and causing the landlord to incur approximately \$600.00 for a plumber to unclog the sewer line. The tenant was of the position that the food and tampons are flushable.

### **Analysis**

In accordance with the Residential Tenancy Policy Guideline Manual, three late payments are the minimum number of late payments to sufficiently justify the landlord ending the tenancy for repeated late payment of rent. As the tenant did not dispute that she has been late paying rent on three separate occasions since the tenancy began, I find the landlord is justified in ending the tenancy.

As the landlord is justified in ending the tenancy for repeated late payment of rent, it is not necessary to further analyze the merits of ending the tenancy for too many occupants or the blocked sewer line and I make no determination concerning those matters. The tenant requested that I determine the liability for the sewer repair; however, the landlord has paid the sewer repair and the landlord has not made an application for compensation for the repair; therefore, the liability for the repair is not an issue I need to determine with this application.

As the parties were informed at the hearing, the effective date on the Notice does not comply with the Act. The earliest the landlord can end the tenancy is the last day of the rental month, at least one month after serving the Notice upon the tenant. The effective date in this case can be no sooner than December 31, 2008 and the effective date is automatically changed to read December 31, 2008. Therefore, the tenancy shall

continue until December 31, 2008 at which time the tenant and any other occupant in the rental unit must vacate the rental unit.

As the tenant was not successful with this application, I make no award to the tenant for recovery of the filing fee.

**Conclusion**

The Notice to End Tenancy is valid; however, the effective date is changed to December 31, 2008 in order to comply with the requirements of the Act.

Dated: December 9, 2008